



Senate

General Assembly

February Session, 2004

File No. 164

Senate Bill No. 50

Senate, March 22, 2004

The Committee on Public Health reported through SEN. MURPHY of the 16th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR EMERGENCY SERVICES PERSONNEL.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) (a) As used in this
2 section:

3 (1) "Body fluids" means blood and body fluids containing visible
4 blood and other body fluids to which universal precautions for
5 prevention of occupational transmission of blood-borne pathogens, as
6 established by the National Centers for Disease Control, apply. For
7 purposes of potential transmission of meningococcal meningitis or
8 tuberculosis, the term "body fluids" includes respiratory, salivary and
9 sinus fluids, including droplets, sputum and saliva, mucous and other
10 fluids through which infectious airborne organisms can be transmitted
11 between persons.

12 (2) "Emergency rescue or public safety worker" means a local or

13 state police officer, state marshal, judicial marshal, correction officer,
14 emergency medical technician, medical response technician,
15 paramedic, ambulance driver, firefighter, active member of a volunteer
16 fire company or fire department engaged in volunteer duties, or active
17 member of an organization certified as a volunteer ambulance service
18 in accordance with section 19a-180 of the general statutes who, in the
19 course of employment, runs a high risk of occupational exposure to
20 hepatitis, meningococcal meningitis or tuberculosis.

21 (3) "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A,
22 hepatitis non-B, hepatitis C or any other strain of hepatitis generally
23 recognized by the medical community.

24 (4) "High risk of occupational exposure" means risk that is incurred
25 because a person subject to the provisions of this section, in
26 performing the basic duties associated with such person's
27 employment:

28 (A) Provides emergency medical treatment in a nonhealthcare
29 setting where there is a potential for transfer of body fluids between
30 persons;

31 (B) At the site of an accident, fire or other rescue or public safety
32 operation, or in an emergency rescue or public safety vehicle, handles
33 body fluids in or out of containers or works with or otherwise handles
34 needles or other sharp instruments exposed to body fluids;

35 (C) Engages in the pursuit, apprehension or arrest of law violators
36 or suspected law violators and, in performing such duties, may be
37 exposed to body fluids; or

38 (D) Is responsible for the custody and physical restraint, when
39 necessary, of prisoners or inmates within a prison, jail or other criminal
40 detention facility, while on work detail outside the facility or while
41 being transported and, in performing such duties, may be exposed to
42 body fluids.

43 (5) "Occupational exposure", in the case of hepatitis, meningococcal

44 meningitis or tuberculosis, means an exposure that occurs during the
45 performance of job duties that may place a worker at risk of infection.

46 (b) Any emergency rescue or public safety worker who suffers a
47 condition or impairment of health that is caused by hepatitis,
48 meningococcal meningitis or tuberculosis that requires medical
49 treatment, and that results in total or partial incapacity or death shall
50 be presumed to have sustained such condition or impairment of health
51 in the course of employment and shall be entitled to receive workers'
52 compensation benefits pursuant to chapter 568 of the general statutes,
53 unless the contrary is shown by competent evidence, provided:

54 (1) The emergency rescue or public safety worker has, prior to
55 diagnosis, undergone standard, medically acceptable tests for evidence
56 of the communicable disease for which the presumption is sought or
57 for evidence of medical conditions derived therefrom, which tests
58 failed to indicate the presence of infection, or in the case of hepatitis
59 infection, shall have banked serum for future testing, which future
60 tests fail to reveal evidence of infection; and

61 (2) The emergency rescue or public safety worker presents a written
62 affidavit verifying by written declaration that, to the best of the
63 worker's knowledge and belief:

64 (A) In the case of meningococcal meningitis, in the ten days
65 immediately preceding diagnosis, the worker was not exposed, outside
66 the scope of employment, to any person known to have meningococcal
67 meningitis or known to be an asymptomatic carrier of the disease.

68 (B) In the case of tuberculosis, in the period of time since the
69 worker's last negative tuberculosis skin test, the worker has not been
70 exposed, outside the scope of employment, to any person known by
71 the worker to have tuberculosis.

72 (c) The employing agency shall maintain a record of any known or
73 reasonably suspected exposure of an emergency rescue or public safety
74 worker in its employ to the diseases described in this section and shall

75 immediately notify the employee of such exposure. An emergency
76 rescue or public safety worker shall file an incident or accident report
77 with the worker's employer of each instance of known or suspected
78 occupational exposure to hepatitis infection, meningococcal meningitis
79 or tuberculosis.

80 Sec. 2. Subparagraph (A) of subdivision (1) of section 31-275 of the
81 general statutes, as amended by section 146 of public act 03-6 of the
82 June 30 special session, is repealed and the following is substituted in
83 lieu thereof (*Effective October 1, 2004*):

84 (A) (i) For a police officer or firefighter, "in the course of his
85 employment" encompasses such individual's departure from such
86 individual's place of abode to duty, such individual's duty, and the
87 return to such individual's place of abode after duty.

88 (ii) For a police officer, firefighter or emergency medical technician
89 employed by the state or any of its political subdivisions, "in the course
90 of his employment" encompasses an accidental death, disability or
91 injury that occurs while such individual is responding to an
92 emergency outside of the individual's regular hours of employment.

93 [(ii)] (iii) Notwithstanding the provisions of clause (i) of this
94 subparagraph, the dependents of any deceased employee of the
95 Department of Correction who was injured in the course of his
96 employment, as defined in this subparagraph, on or after July 1, 2000,
97 and who died not later than July 15, 2000, shall be paid compensation
98 on account of the death, in accordance with the provisions of section
99 31-306, retroactively to the date of the employee's death. The cost of the
100 payment shall be paid by the employer or its insurance carrier which
101 shall be reimbursed for such cost from the Second Injury Fund as
102 provided in section 31-354 upon presentation of any vouchers and
103 information that the Treasurer may require.

This act shall take effect as follows:	
Section 1	October 1, 2004

Sec. 2	October 1, 2004
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LAB *Joint Favorable C/R*

PH

PH *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Dept. of Administrative Services - Workers' Comp. Claims; Children & Families, Dept.; Correction, Dept.; Mental Health & Addiction Serv., Dept.; Mental Retardation, Dept.; Public Safety, Dept.	GF - Cost	Potential Significant	Potential Significant
Dept. of Administrative Services - Workers' Comp. Claims	TF - Cost	Potential Significant	Potential Significant
Treasurer	SIF - Cost	15,000 to 30,000	20,000 to 40,000

Note: GF=General Fund; TF=Transportation Fund; SIF=Second Injury Fund

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
All Municipalities	STATE MANDATE - Cost	Potential Significant	Potential Significant

Explanation

This bill establishes a rebuttable presumption that public safety or emergency rescue personnel who contract hepatitis, meningitis, or tuberculosis got the condition from the workplace and are eligible to receive workers' compensation benefits. The bill also would extend workers' compensation benefits to state and local police officers, firefighters or emergency services personnel who respond to emergencies outside their regular work hours.

The fiscal impact to the state and municipalities (in particular those municipalities that are self-insured) could be potentially significant. Workers' compensation liability for each case of hepatitis, meningitis, or tuberculosis is estimated to be as high as \$750,000 - \$2,500,000 per case, depending on the age of the claimant and the severity of the

disease. The bill is also estimated to result in costs to the Second Injury Fund of approximately \$15,000 - \$30,000 in FY 05 and \$20,000 - \$40,000 in FY 06.

It is not known how many public safety and emergency rescue personnel contract these diseases. In 2003 there have been eight cases concerning these diseases brought before the Workers' Compensation Commission.

Establishing a rebuttable presumption shifts the burden of proof to the employer or insurer to attempt to refute the employee's claim that the disease was contracted on the job. Under current law, such persons seeking workers' compensation benefits have the burden of proving that they contracted the disease from the workplace. In order to be entitled to the rebuttable presumption, the worker must have undergone medical tests prior to the diagnosis and tested negative (or banked blood for future testing in the case of hepatitis) and, in the case of meningitis and tuberculosis provide a written affidavit that he was not exposed to any person known to have the disease outside of work. The bill also requires emergency rescue and public safety workers to file reports about exposures and requires employers to maintain records of such exposures. Since the bill establishes these substantive changes in workers' compensation coverage on the effective date of the act, October 1, 2004, only claims filed on or after that date could be considered under the rebuttable presumption provisions.

Under current practice, the state would not contest workers' compensation cases for public safety and emergency personnel who respond to emergencies outside of regular work hours. Therefore, this provision of the bill will result in a minimal fiscal impact, which would not require additional funding.

OLR Bill Analysis

SB 50

***AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE
FOR EMERGENCY SERVICES PERSONNEL*****SUMMARY:**

This bill creates a rebuttable presumption that an emergency rescue or public safety worker who develops hepatitis, meningococcal meningitis, or tuberculosis got the condition from work and is entitled to workers' compensation benefits. To be compensable, the condition must require medical treatment and result in total or partial incapacity or death. The bill requires such workers to have tested negative for the condition previously and, in cases of meningitis and tuberculosis, swear they were not exposed to the claimed condition outside of work. Under current law, any condition or injury must be causally traceable to the worker's employment before he can be compensated.

The bill also requires emergency rescue and public safety workers to file reports about exposures and employers to maintain records of exposures.

The bill expands workers' compensation coverage for police officers, firefighters, and emergency medical technicians (EMTs) who are injured, disabled, or die when responding to an emergency outside of their regular employment hours.

EFFECTIVE DATE: October 1, 2004

EMERGENCY RESCUE AND PUBLIC SAFETY WORKERS

The bill applies to emergency rescue and public safety workers who run a high risk of occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis in their work. These are individuals who work as state or local police officers, state or judicial marshals, correction officers, emergency medical or medical response technicians, paramedics, ambulance drivers, firefighters, active members of volunteer fire companies or departments engaged in volunteer duties, or active members of volunteer ambulance services.

“High risk of occupational exposure” means a risk incurred because a person, in performing his basic duties:

1. provides emergency medical treatment outside of a healthcare setting where there is a potential for transferring body fluids;
2. handles body fluids, needles, or other sharp instruments exposed to body fluids at the site of an accident, fire, or other rescue or safety operation or in an emergency rescue or public safety vehicle;
3. may be exposed to body fluids while engaged in the pursuit, apprehension, or arrest of law or suspected law violators; or
4. may be exposed to body fluids when responsible for the custody and physical restraint of prisoners or other detainees.

“Body fluids” are blood, fluids containing blood, and other body fluids for which universal precautions apply. For purposes of meningococcal meningitis or tuberculosis, they include respiratory, salivary, and sinus droplets that can transmit infectious airborne organisms.

MEDICAL TESTS AND AFFIDAVITS

In order to be entitled to the rebuttable presumption, the worker must (1) have undergone medical tests prior to diagnosis for the condition for which benefits are sought and tested negative (and in cases of hepatitis must have banked blood for future testing) and (2) in cases of meningitis, present a written affidavit that in the 10 days prior to diagnosis, he was not exposed outside of work to anyone having or carrying the disease and, in cases of tuberculosis, present a written affidavit that he was not exposed outside of work to anyone known to have the disease since his last negative test.

RECORDS

Emergency rescue and public safety workers must file a report with their employer about each known or suspected occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis.

Employing agencies must maintain a record of known or reasonably suspected cases of exposure and must notify all employees of such exposures immediately.

EMERGENCIES OUTSIDE REGULAR WORK HOURS

The bill also expands workers' compensation coverage for police officers, firefighters, and EMTs employed by the state or any of its political subdivisions who are injured, disabled, or die when responding to an emergency outside of the worker's regular employment hours. Under current law, police officers and firefighters are covered by workers' compensation outside of their regular work hours only when they travel from home to work and from work to home.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Change of Reference

Yea 11 Nay 2

Public Health Committee

Joint Favorable Report

Yea 18 Nay 4